SIM & DEPAOLA, LLP

Attorneys-at-Law
42-40 Bell Boulevard – Suite 405
Bayside, New York 11361
Tel: (718) 281-0400

Fax: (718) 631-2700

February 16, 2023

VIA ECF:

Honorable Lewis J. Liman, U.S.D.J. United States District Court Southern District of New York 500 Pearl Street New York, New York 10007

Re: Noheme Perez v. City of New York, et al. Docket No. 20-cv-1359 (LJL)

Honorable Judge Liman,

The Plaintiff, Ms. Noheme Perez, by the undersigned counsel, respectfully submits this letter in response to Your Honor's order requesting Plaintiff to show cause as to why their case should not be dismissed for failure to prosecute or, in the alternative why it should not be precluded from offering any evidence at trial (ECF Doc. 80). The undersigned apologizes to the Court for their delay in filing the Joint Pre-Trial Order but respectfully submits that said error was on no fault of the Plaintiff, Ms. Perez, and that she fully intends to prosecute her sole remaining claim against Defendants. The undersigned submits this instant application to deny Defendants' Motion to Dismiss for Lack of Prosecution (ECF Doc. 77) because Plaintiff has good cause, explained *supra*, and for leave to file Plaintiff's portion of the joint pre-trial order on **February 17, 2023**.

The reasons for the above failure are due to a number of issues, *inter alia*, the loss of support staff, that both partners and supervising attorneys for this matter, Mr. Peter Sim and Mr. Samuel DePaola, were occupied with separate trials from January 23, 2023 to February 9, 2023, and, as a result, efforts obtaining settlement authority for this matter were frustrated. After the undersigned obtained authority, Defense counsel communicated to the undersigned and Mr. DePaola on February 10, 2023 *via* email, whether Plaintiff's demand was below 4,000 U.S. Dollars or whether trial should proceed. Unfortunately, Plaintiff's present demand is 50,000 U.S. Dollars and the undersigned was unable to receive instruction on how to proceed after the above communication from Defense counsel. To be clear, Plaintiff firmly believes this matter can be settled without trial but also fully intends to try the case before a jury.

Wherefore, it is respectfully requested that this Court extend the time for the Plaintiff to submit their joint pre-trial order from **February 13, 2023** to **February 17, 2023 and**, or any other

date that may be acceptable to the Court; together with such further or additional relief, as the Court may deem necessary and just.

Respectfully submitted,

/s/ Ataur Raquib

Ataur Raquib, Esq.

Attorney for Plaintiff

Sim & DePaola, LLP

araquib@simdepaola.com